



Montanans united for kids

MONTANA
QUALITY EDUCATION
COALITION

SENATE EDUCATION

EXHIBIT NO. 4

DATE 1-29-07

BILL NO. SB 307

**TESTIMONY ON SB 307 – Sen. Don Ryan
Senate Education and Cultural Resources
January 29, 2007**

Chairman Ryan and members of the committee:

For the record, I am Pete Carparelli, Executive Director of the Montana Quality Education Coalition.

I appear on behalf of MQEC and as an opponent of SB 307 sponsored by Senator Ryan.

In previous testimony I have shared with you the goals of MQEC and its approach to proposed legislation related to the funding of Montana's public elementary and secondary schools. Although I will not repeat that message again today, I will submit it as part of my written testimony.

As you know, the goal of the Montana Quality Education Coalition is adequate stable on-going funding for quality public K–12 education as defined in 20-9-309 MCA passed by the Montana Legislature in 2005 and as assured by the Montana Constitution. MQEC will evaluate legislation proposed during the 2007 Legislature, and will support such legislation that adequately addresses one or more of the requirements of 20-9-309 MCA and meets the state's constitutional obligation to adequately fund our public K–12 school system. It has also provided information in the form of the report, Estimating the Cost of an Adequate Education in Montana, to assist the Legislative and Executive branches in its considerations of proposed legislation dealing with Montana's public elementary and secondary schools.

MQEC honors the Court's recognition of the legislature's right to phase in any remedy over time, and MQEC will support legislation as part of a phase-in remedy that explicitly prescribes a cost-based approach and leads to a defined funding goal over a specified period of time.

MQEC will oppose legislation that is not consistent with 20-9-309 MCA and the Court's decision.

Today, **MQEC opposes passage of SB 307, "An Act Prohibiting the Board of Trustees of a School District Receiving State Money from Using That Money to Directly or Indirectly Support Litigation To Obtain Additional State Funding Without Prior Voter Approval; and providing an immediate effective date"** on the grounds that any bill whose text is nearly as long as its title must be basically flawed from the "git go." I am sure that you, the members of this committee, have already asked yourself questions about the How? When? What? that are missing from this bill. Are you confident that this bill should move on with so many questions left unanswered, or so many blanks unfilled?

MQEC has also determined that while the bill does not address a single test applied by MQEC to the matter of adequate funding and/or quality education, it legislates against one of those tests, that of local control. It is an assault on local school trustees and their ability to fill their oaths to manage the resources entrusted to them in the best interest of the children in their communities. To the matter of local control, it is wholly unsatisfactory that the Legislature would require that a local school board bring any expenditure within its budget authority to a local vote, much less to specify one in particular. Will this legislature decide that any activity of a local school board that the Legislature finds bothersome, embarrassing, or challenging would be prohibited or that local spending for such activity would be subject to a level of oversight and sanction beyond that now prescribed by statute and constitutional intent? Will you concur when other legislation comes forward that requires voter approval for funding of an activity

that some amongst you consider a challenge to their authority? Is this legislature ready to put its fingerprints on local matters just because this legislature cannot accept that accountability goes two ways?

Why would this legislature go on record of making it more difficult for local citizens to hold their legislators and governor accountable for actions prescribed by our Constitution and the legislature's own laws? Why would you chose to limit the ability of Education to serve the people who depend upon it for the way to their future, while not limiting all departments of State Government?

Before this Legislature usurps the concept of local control of schools guaranteed in Article X, Section 8 of the Montana State Constitution of 1972, and prescribed in Section (2) (h) of 20-9-309 MCA codified in 2005, it should consider the extent to which it has lived up to its own statutory and constitutional obligations or honored other orders of the Judicial Branch. MQEC has testified on numerous occasions that it will work cooperatively with this legislature to meet those obligations in a fair and reasonable way. It has presented a comprehensive study of school funding in Montana, and it has testified that amendments and corrections could make proposed legislation more effective in an effort to move school funding toward adequacy. To date, MQEC has not seen any indication that this Legislature is taking MQEC's testimony any more seriously than it is taking the findings of the courts and its statutory and constitutional obligations.

Good Senators, you tell me why a local school board should be prohibited from seeking legal redress for its citizens and their children from the Legislative and Executive Branches which have blatantly ignored their obligations to the people of Montana even to the point of ignoring an order of the Courts to pay legal fees. Perhaps the answer is that if the rule of law does not apply to the Legislature, it should not be worthy of use by the people. Or look at it from another perspective. Should you, the Legislators, or should departments of the Executive Branch be prohibited from using taxpayer dollars to take legal action against the Federal Government when that authority has set onerous demands

on the State or when that authority has failed to live up to its obligations to the people of Montana? Can you espouse that concept?

Finally, MQEC has to strongly object to the immediate effective date of this bill. It is an egregious attempt to stall and/or disrupt the on-going legal actions taken by school districts and others against the state for the State's miserable failure to provide adequate funding during several years before the 2005 Legislative Sessions. It is a flagrant attempt to provide the legislature wiggle room to continue to avoid its legal and moral obligations to the children of this state.

Chairman Ryan and members of the committee, MQEC suggests to you that SB 307 is bad law, and as such, if passed, you will surely find yourself defending it in a court of law, even without the use of state funds. SB 307 is an outward sign of a vindictive and punitive attitude that can be seen whenever the schools of this state hold the Legislature accountable. You would be making a big error to pass this bill for further consideration.

Thank you for the opportunity to address you this afternoon.

2007 Legislative Agenda

Quality Schools for Every Montana Child



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The Montana Quality Education Coalition will play an assertive role during the 2007 Legislative Session. MQEC will be consistent with the positions it took during the 2005 regular and special legislative sessions, and will be consistent with the requirements set by the 2005 Legislature in Senate Bill 152, now 20-9-309 MCA.

MQEC will evaluate legislation proposed during the 2007 Legislature, and will support such legislation that adequately addresses the requirements of 20-9-309 MCA and meets the state's constitutional obligation to adequately fund our public K-12 school system. MQEC will oppose legislation that is not consistent with 20-9-309 MCA and the Court's decision.

MQEC offers its 2007 Legislative Agenda, not as a complete list of legislative elements that will assure adequate funding, but as a guideline by which to measure progress toward a system of adequate funding. MQEC will consider evidence of progress toward adequacy as legislation that:

1. **provides funding that is cost-based and is adequate to satisfy the definition of quality public elementary and secondary schools provided in 20-9-309 MCA.**
 - MQEC has provided an updated adequacy study to the State's Legislators and other policy-makers in order to assist with the process of writing and enacting cost-based funding legislation.
 - MQEC asks the Legislature to honor its own codification of education laws (especially 20-9-309 MCA), and apply the cost-based information provided in the adequacy study to the laws it has already enacted.
2. **enhances funding through a predictable, phased and stable process that meets the State's statutory and constitutional obligations, and that assures adequate future funding for the education of the children of the State of Montana.**
 - MQEC honors the Court's recognition of the state's right to phase in any remedy over time. MQEC will support a phase-in remedy that explicitly prescribes a cost-based approach and leads to a defined funding goal over a specified period of time.
 - MQEC believes that suitable annual inflation factors for all elements of the funding system should be included as an essential first step of any phased remedy.
3. **moves forward with plans for addressing the costs of school facilities.**
 - MQEC requests that the legislature extend the one-time facility funding appropriations made during the 2005 special session until the State completes its facilities study and devises a system for statewide capital needs.
 - MQEC believes that the State should provide a suitable inflation adjustment to this amount for FY 2009 and for subsequent years until the statewide system is implemented.